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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,448	01/27/2004	Christian Bertin	127524	8578
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EXAMINER				
IDOWU, OLUGBENGA O				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/765,448

Applicant(s)

BERTIN ET AL.

Examiner

OLUGBENGA O. IDOWU

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 4/11/2008 have been fully considered but they are not persuasive.

In response to applicant's arguments on page 3, paragraph 1 of the remarks, Horowitz teaches sending EPG event record to clients [0051].

In response to applicant's arguments on page 3, paragraph 2 of the remarks, according to the claims the record file contains: information identifying content to be recorded and its scheduled date and time; the event record of Horowitz contains the same information [0051]

In response to applicant's arguments on page 3, paragraph 3 of the remarks, Yamato was brought in to cover the deficiency stated in the first point of the paragraph. Applicant is directed to page 4 of the previous office action for clarification. In response to the second point in the paragraph, Dudkiewicz implements the steps of selecting programs to be recommended to a user or recorded by user, the selection been performed at the headend and the selection being sent to users [0105].

In response to applicant's arguments on page 5, paragraph 1 of the remarks, Dudkiewicz [0105] states that the server is equipped to carry out the processes that occur at the client device. The server is also able to identify upcoming programs to be recommended or recorded.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1 – 5, 8– 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horowitz, publication number: US 2004/0078817 A1 in view of Yamato, Publication #: 2002/0127000A1 in further view of Dudkiewicz, publication number: US 20020152474 A1.

As per claims 1, 14, 15 and 16 Horowitz teaches a method of recording audiovisual contents,
the contents being broadcast according to a schedule predetermined by a content broadcaster, the method including:

the content being associated with a broadcast date and time predetermined by the content broadcaster (information associated with scheduled recording, [0033], lines 1 - 7),
a step of the content presentation server generating a record file containing information identifying the selected audiovisual content to be recorded and the

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scheduled data and time for broadcasting it (program record, [0051], lines 4-7, 13-17, [0052], lines 1- 3)

a step of the access terminal receiving the record file of the selected audiovisual content, (receiving updates, [0051], lines 5 - 7), and

a step of updating the record file, especially in the event of modification of the audiovisual content selected by the presentation server (updating record file, [0029]).

Horowitz does not teach the method further comprising: a preliminary step of the access terminal selecting a set of contents having a common topic, said set being offered by an audiovisual content presentation server, which then executes the selection of the audiovisual content automatically on the basis of the selected set.

In an analogous art, Yamato teaches the method further comprising a preliminary step of the access terminal selecting a set of contents having a common topic (In addition, the device 100 searches the data of the EPG for user's favorite programs by using keywords or types which are established in advance by the user, [0169], lines 6 -9), said set being offered by an audiovisual content presentation server (Horowitz: locating shows of interest from the EPG, [0049], lines 2 - 5).

Therefore, It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Horowitz's a dynamic event recording by including a preliminary selection step, as taught by Yamato's method of selecting audio visual content to be recorded, for the advantages of providing the viewer with an intuitive and informative display; it also creates an avenue for recording a variety of shows to be watched by the viewer

The combination of Horowitz and Yamato does not teach the system where the content to be recorded is selected by the server.

In an analogous art, Dudkiewicz teaches the step of the audiovisual content presentation server selecting an audio visual content to be recorded (programming provider identifying contents to be recommended and recorded, [0105])

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination of Horowitz and Yamato, as described in Dudkiewicz' programming system, for the advantages of reducing the tasks carried out and the processing power required by STB.

As per claim 2, the combination of Horowitz, Yamato and Dudkiewicz teach a method according to claim 1 of recording audiovisual contents broadcast according to a schedule, wherein the updating step is executed if the date and/or

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the time of broadcasting the selected audiovisual content is modified (Horowitz: update, [0029]).

As per claim 3, the combination of Horowitz, Yamato and Dudkiewicz teach a method according to claim 1 of recording audiovisual contents broadcast according to a schedule, wherein the updating step is executed if the selection of the audiovisual content selected by the presentation server is modified (Horowitz: update, [0029]).

As per claim 4, the combination of Horowitz, Yamato and Dudkiewicz teach a method according to claim 1 of recording audiovisual contents broadcast according to a schedule, wherein the updating step is executed if the selected audiovisual content is replaced by another audiovisual content or is cancelled (Horowitz: update, [0029]).

As per claim 5, the combination of Horowitz, Yamato and Dudkiewicz teach a method according to Claim 1 of recording audiovisual contents broadcast according to a schedule, wherein the record file includes at least one field marked by a markup and defining information identifying the corresponding audiovisual content, associated with data describing said content (Horowitz: content description, [0052], lines 1 - 7).

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As per claim 8, the combination of Horowitz, Yamato and Dudkiewicz teach a method according to claim 1 of recording audiovisual contents broadcast according to a schedule, wherein the presentation server comprises means for identifying a terminal that has selected an audiovisual content and the updating step includes notifying a modification relating to said audiovisual content as soon as the presentation server is notified of said modification (Horowitz: updating based on requests, [0051], lines 5 - 7).

As per claims 9 and 13, the combination of Horowitz, Yamato and Dudkiewicz teach recording audiovisual contents broadcast according to a schedule, wherein the record file includes the address of an update server for generating a request to update the record file sent by the terminal to the update server (Horowitz: FTP, [0043], lines 8 - 12).

As per claim 10, the combination of Horowitz, Yamato and Dudkiewicz teach a method according to claim 9 of recording audiovisual contents broadcast according to a schedule, wherein the request is an HTTP request (Horowitz: FTP, [0043], lines 8 - 12).

As per claim 11, the combination of Horowitz, Yamato and Dudkiewicz teach a method according to claim 9 of recording audiovisual contents broadcast according to a schedule, wherein the terminal sends the request to update the

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record file periodically up to the date and time scheduled for broadcasting the selected audiovisual content (Horowitz: regular updates, [0031], lines 7 - 15).

As per claim 12, the combination of Horowitz, Yamato and Dudkiewicz teach a method according to claim 9 of recording audiovisual contents broadcast according to a schedule, wherein the terminal sends the request to update the record file increasingly often as the date and time for recording the selected audiovisual content approaches (Horowitz: regular updates, [0031], lines 7 - 15).

4. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horowitz, publication number: US 2004/0078817 A1 in view of Yamato, Publication #: 2002/0127000A1 in view of Dudkiewicz, publication number: US 20020152474 A1 in further view of Carden, Patent number: US 6 996 627 B1.

As per claim 6, the combination of Horowitz, Yamato and Dudkiewicz teach updating a record file based on changes in schedule.

The combination does not teach an identifier associated already recorded content.

In an analogous art, Carden teaches recording audiovisual contents broadcast according to a schedule, wherein the record file includes at least one field marked by a markup and defining, for a given audiovisual content in the same file, a content identifier associated with a content already recorded in the storage

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means of the access terminal (the program data structure 200 contains some of the program information items 102 as well as identifies the location of other program information items 102, col. 6, lines 19 - 22).

Therefore, it would have been obvious to one of ordinary skill in the art to modify the combination of Horowitz, Yamato and Dudkiewicz by including a way to track previously recorded items, as described in Carden's information updating system, for the advantages of saving storage space by not recording already recorded programs.

As per claim 7, the combination of Horowitz, Yamato and Dudkiewicz teach updating a record file based on changes in schedule.

The combination does not teach an XML schema.

In an analogous art, Carden teaches recording audiovisual contents broadcast according to a schedule, wherein the syntax of files exchanged between the access terminal and the server is defined by a unique data structure schema, in particular an XML schema (XML, col. 4, lines 9 -14).

Therefore, it would have been obvious to one of ordinary skill in the art to modify the combination of Horowitz, Yamato and Dudkiewicz by including the use of XML, as described in Carden's information updating system, for the advantages of representing data structures, records and lists.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **OLUGBENGA O. IDOWU** whose telephone number is (571)270-1450. The examiner can normally be reached on Monday to Friday, 7am -5pm Est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Pendelton can be reached on 571 272 7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Olugbenga O Idowu/
Examiner, Art Unit 2623
/Brian T. Pendleton/

Supervisory Patent Examiner, Art Unit 2623